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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/809,220	03/25/2004	Itzhak Levy	F-8464	6551

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EXAMINER
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CHOI, WOO H

ART UNIT	PAPER NUMBER
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2189

DATE MAILED: 03/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/809,220	LEVY, ITZHAK	
	Examiner	Art Unit	
	Woo H. Choi	2189	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 25 March 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 8-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Election/Restrictions*

1. Retriktion to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1 – 7, drawn to system of archiving data from one disk to another, classified in class 711, subclass 161.
  - II. Claim 8 – 10, drawn to determination of storage location on a storage device, classified in class 711, subclass 4.
2. Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination II has separate utility, for example, for selection or addressing of a bootable partition. Archiving as claimed in I is not necessary to practice the invention of II. See MPEP § 806.05(d).
3. Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.
4. During a telephone conversation with Werner Stemer on March 15, 2006 a provisional election was made with traverse to prosecute the invention of I, claims 1 – 7. Affirmation of this election must be made by applicant in replying to this Office action.

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Claims 8 – 10 are withdrawn from further consideration by the examiner, 37

CFR 1.142(b), as being drawn to a non-elected invention.

*Claim Rejections - 35 USC § 102*

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1 – 7 are rejected under 35 U.S.C. 102(e) as being anticipated by Mizuno et al. (US Patent Application Publication No. 2005/0086443, hereinafter “Mizuno”).

7. With respect to claims 1, 3 and 5, Mizuno discloses a computer system, comprising:

a processor generating data output (a host, see figure 1, Host I/F);

a hard disk drive adapter forming an intermediate adapter connected to receive the data output from said processor and configured to write the data output to a plurality of channels (see figure 8);

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a plurality of data storage devices (figure 1, 12, 13, figure 8, 12, 14) each connected to a respective channel of said hard disk drive adapter and connected to receive and store the data output; and

wherein said intermediate adapter is configured to archive the data from one of said channels to another one of said channels defined as a backup channel, substantially without intervention and resource utilization of said processor (see abstract, the backup is done by the disk controller).

8. With respect to claim 2, said processor is a central processor with a hard disk drive connector communicating with said intermediate adapter (figure 1 and 8, host communicates with the disk controller via the host I/F, i.e., 'hard disk driver connector').

9. With respect to claim 3, said backup storage device has a storage capacity several times larger than said source device (page 4, paragraph 56, additional disk may be added to 13 as needed and figure 2 discloses that multiple generations of backups are stored in 13).

10. With respect to claim 6, said backup storage device is a partitioned drive with a partition size substantially corresponding with a size of said one storage device, and said intermediate adapter is configured to alternately back up data from said one storage device to individual partitions of said backup storage device (page 4, paragraph 59, disks are divided into volumes and entire volume is backed up).

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11. With respect to claim 7, said backup storage device has a partition for each of a plurality of days of the week, and said intermediate adapter is configured to back up data on given days of the week to the respective said partition on said backup storage device (figure 2 and page 3, paragraph 50, figure 2 shows 7 generations of backups taken at 12:00 PM every day).

### *Conclusion*

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Woo H. Choi whose telephone number is (571) 272-4179. The examiner can normally be reached on M-F, 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Reginald Bragdon can be reached on (571) 272-4204. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Woo H. Choi  
March 15, 2006